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PHILLIPS 66 COMPANY

August 20, 2002

Sherrie Komeylyan
California Regional Water Quality Control Board
San Diego Region
9174 Sky Park Court, Suite 100
San Diego, California 92123

**Re: Former Tosco Service Station #5965
1110 San Marino Drive
San Marcos, CA
Complaint No. R9-2002-0203
Order No. 2001-96, NPDES No. CAG919002**

2002 AUG 29 A 9:14

CONTROL BOARD

Dear Ms. Komeylyan:

Tosco Corporation, a subsidiary of Phillips Petroleum Company, received the Regional Water Quality Control Board letter dated August 6, 2002 concerning the subject discharge permit. Tosco is concerned about the reported violations and will address each violation as described in the Regional Board's letter.

Tosco operates a treatment system for water collected from a French-drain at the subject site. The French-drain is utilized to prevent surface discharge of hydrocarbon impacted groundwater. The treatment system consists of a media filter and three 1000 pound activated carbon vessels connected in series to the local storm drain. Tosco maintains and monitors the performance of the treatment system in accordance with the NPDES permit.

Laboratory analytical results from the routine sampling events on March 11, 2002 and April 15, 2002 indicated that Total Residual Chlorine concentrations exceeded the discharge limit. Additionally, on April 29, 2002, Tosco was informed that the effluent had failed the semi-annual toxicity test. The Regional Board was immediately informed of the exceedance in accordance with the NPDES permit. To address this, Tosco took all reasonable measures to, not only minimize, but eliminate discharge exceedances. On May 17, 2002, discharge from the treatment system was diverted to a Baker Tank for temporary storage and ultimate disposal to a regulated water treatment facility. Additionally, samples of influent and effluent water were collected to evaluate whether or not Chlorine was actually present.



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The presence of Chlorine was suspect since it is not introduced or expected in the treatment process. In order to eliminate the potential for Chlorine to be introduced in the sampling procedure, sample bottles without HCL preservative were used on and after May 17, 2002. Analysis of the non-preserved samples collected on May 17th showed no detectable Total Residual Chlorine concentrations above 0.1 mg/l.

May 21, 2002 Tosco replaced all the carbon in the three vessels in order to eliminate the carbon itself as a source for the toxicity. To this day, we are continuing to collect effluent from the treatment system in a Baker Tank prior to transporting it to a licensed treatment facility. Toxicity testing of influent and effluent water from the treatment system has continued in order to identify the source of toxicity.

We are writing this letter in order to address each of the alleged violations and provide information for the Board to use for reconsideration of the penalties outlined in the Board's August 6, 2002 letter.

Tosco appreciates this opportunity to explain the alleged violations and looks forward to discussing the points contained here in more detail at the meeting planned for August 22, 2002 at the Board's offices. Based on the Board's letter, the penalties involve two types of discharge violations: Total Residual Chlorine Exceedance and Chronic Toxicity Failure.

Discharge of Total Residual Chlorine

In regards to the allegation of the exceedance of the discharge limit for Total Residual Chlorine on March 11 and April 15, 2002, Tosco respectfully submits that the violations assessed by the Board should be reconsidered for the following reasons.

1. It is apparent that the results obtained from the March 11 and April 15 sampling events, are false positives for Total Residual Chlorine due to the previously used sampling protocol. As stated, Chlorine is not introduced or produced in the groundwater treatment process. In addition, Chlorine is extremely unlikely to be present in the effluent due to the high adsorption capacity for Chlorine by the granular activated carbon treatment at the site. This conclusion was further substantiated by the fact that all subsequent sample results (May 17, June 10, June 25, July 2, and July 8), using non-preserved containers, showed no detectable Total Residual Chlorine concentrations. Based on these findings, there was no actual discharge of Total Residual Chlorine above the permit limits.

2. Additionally, only one test result was obtained for Total Residual Chlorine for each the sampling events on March 11 and April 15, yet there are five alleged violations assessed by the Regional Board. Tosco believes that, if any violation is to be assessed, it should be only for the two test results obtained, one for March 11 and one for April 15.

Tosco believes that since the exceedances were the result of a sampling protocol issue and there was no actual discharge above the permit limits, that the Board should not assess a penalty for the alleged violations concerning Total Residual Chlorine exceedances. Alternatively, as referenced and allowed in the Water Code Section 13385(h)(1), Tosco is willing to implement a pollution prevention plan in lieu of being assessed a financial penalty by the Board. Tosco is willing to demonstrate to the Board that a serious discharge violation of Total Residual Chlorine will not occur in the future. This could be accomplished by the development of a pollution prevention plan, which addresses sampling quality control issues.

Failed Chronic Toxicity Test

In regards to the allegation of the exceedance of Chronic Toxicity limits for effluent water on April 15, 2002, Tosco respectfully submits that the violations assessed by the Board should be reconsidered for the following reasons.

1. According to the Regional Board's letter, the Chronic Toxicity test failure reported for April 15, 2002 resulted in five violations of \$3,000 each for a total of \$15,000. Tosco believes that since only one sample was taken/tested, that only one discharge violation for toxicity should be assessed.
2. Tosco understands that there is an allowance of three (3) violations before the Board assesses a penalty for subsequent discharge violations as referenced in the Board's letter, page 2, section 6b. If the Board determines that there were multiple violations resulting from the one toxicity test, Tosco requests that the Board consider three of those violations as not applicable for penalty assessment.

Additionally, Tosco, at great costs, has taken significant steps to eliminate the recurrence of this toxicity violation. As stated previously, Tosco has discontinued discharge of effluent water to the storm drain until this toxicity issue is resolved. Since groundwater is collected to prevent discharge of hydrocarbon impacted water to the surface, the system can not be shutdown. As a result, collected groundwater is temporarily stored on site and then transported twice a week to a treatment facility.

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To date, this has cost Tosco an estimated \$20,000 and is continuing at approximately \$1,600 per week. These costs are in addition to the normal O&M costs and more than exceed the original assessed penalty for this exceedance. Therefore Tosco requests that this work qualify as a supplemental environmental project as referenced in the Water Code Section 13385(h)(1), and is conducted in lieu financial penalty by the Board.

In conclusion, Tosco is very concerned about the alleged violations and does not take such violations lightly. Tosco is working diligently to maintain and operate a compliant treatment system at the subject site and is convinced that future discharge violations will be eliminated or minimized to the greatest extent practicable. I look forward to discussing these issues and concerns with the Board at our meeting on Thursday, August 22 at 10:00 AM. Thank you for your attention to this matter.

Sincerely,



Michael Bryan
Director, Regional Environmental Compliance
Agent for TOSCO Corporation

cc: Dan Fischman, Tosco
Dan Truzzolino, Tosco
J. Niu, Environ Strategy
Steve Defibaugh, Block Environmental